

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 24-CR-20110-GAYLES(s)

UNITED STATES OF AMERICA

v.

BAYRON BENNETT, et al.,

Defendants.

**GOVERNMENT'S RESPONSE TO MCCLATCHY COMPANY, LLC'S MOTION FOR
LIMITED INTERVENTION AND ACCESS TO AUDIO RECORDING (DE: 75)**

The United States of America, by and through the undersigned Assistant United States Attorney, hereby files its Response to the McClatchy Company, LLC's Motion for Limited Intervention and Access to Audio Recording. (DE: 75).

Procedural History

In March 20, 2024, a federal grand jury returned an indictment against Bayron BENNETT, Michael DULFO, Jerren HOWARD, and Edner ETIENNE charging them with Conspiracy to Commit Stalking, Stalking, Arson, and other related charges. (DE: 24). The government moved for a protective order on all discovery (DE: 41), which was granted by the Court on April 22, 2024. (DE: 42). In July 2024, a number of new defendants, including Fausto VILLAR, were arrested and charged by complaint, and a federal grand jury returned a superseding indictment on July 31, 2024, adding those defendants and charging them with Murder for Hire Conspiracy and related charges. (DE: 53). On August 9, 2024, Magistrate Judge Goodman held a hearing to determine if Defendant VILLAR should be held in custody while awaiting trial, or if a bond should be issued. (DE: 61). At the hearing, the government made a factual proffer, during which it played a recording of VILLAR as part of its proffer. Special Agent Conor Goepel of the Federal Bureau of

Investigation also provided testimony. The recording was not entered into evidence and was not filed with Clerk of the Court as an Exhibit. At the conclusion of the hearing, Magistrate Judge Goodman ordered the Defendant detained based on risk of flight and danger to the community, and a Detention Order was issued. (DE: 61-62).

On September 18, 2024, Magistrate Judge Goodman issued a paperless Order that stated that Judge Goodman had received an email from a reporter from *The Miami Herald*, who indicated that he had requested a copy of the recording from the Clerk of the Court, but was directed to obtain an Order from Magistrate Judge Goodman. Judge Goodman then directed that any request would have to be made by motion. (DE: 73). On September 24, 2024, counsel for the McClatchy Company, LLC, the publisher of *The Miami Herald*, filed the instant motion to intervene and requesting that the Court order the Clerk of the Court to provide *The Miami Herald* with either a copy of the recording played during the detention hearing or a copy of the recording of the entire detention hearing. (DE: 75, p.2). Magistrate Judge Goodman issued an Order granting the Motion to Intervene, but reserving ruling on the substantive request to provide the recording until the government filed a response. (DE: 76).

The Government's Position

The government does not oppose The McClatchy Company, LLC's position that it should be able to obtain a copy of the Digital Audio Recording (DAR) from the detention hearing of VILLAR. The instant motion does not request that the government turn over any evidence that is subject to the Court's Protective Order. The motion requests that the Clerk of the Court provide either the recording played in open court or the entire recording of the proceeding. Since the recording of VILLAR was not entered into evidence and not filed with the Clerk of the Court, the DAR recording of the proceeding should be made available to The McClatchy Company.

The government agrees with The McClatchy Company that the First Amendment and the supporting case law allow for The McClatchy Company to obtain a copy of the DAR recording of the public court proceeding where VILLAR was ordered detained.

Conclusion

For the forgoing reasons, the government does not oppose the Motion for Limited Intervention and for Access to Audio Recording. (DE: 75).

Respectfully submitted,

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

By: Brian Dobbins
BRIAN DOBBINS
Assistant United States Attorney
Court ID No. A5501182
99 Northeast 4th Street
Miami, Florida 33132
T. (305) 961-9304
Brian.Dobbins@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 27, 2024, I electronically filed the foregoing document and its attachments with the Clerk of the Court using CM/ECF. I also certify that a copy of the filed Response was sent via electronic mail to Mr. Scott D. Ponce, Esq., Holland & Knight LLP, counsel for The McClatchy Company, LLC at Scott.Ponce@hkllaw.com.

By: Brian Dobbins
BRIAN DOBBINS
Assistant United States Attorney